

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1687-PST-E TCEQ ID: RN102270501 CASE NO.: 36708
RESPONDENT NAME: EDELIA I. TREVINO

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 866 South Padre Island Drive, Corpus Christi, Nueces County</p> <p>TYPE OF OPERATION: property with inactive underground storage tanks</p> <p>SMALL BUSINESS: N/A</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired July 27, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Ms. Peipey Tang, Litigation Division, MC 175, (512) 239-0654 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Waste Enforcement Section, MC 128, (512) 239-5690</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Brad Genzer, Corpus Christi Regional Office, MC R-14, (361) 825-3106</p> <p style="margin-left: 20px;">Respondent: Ms. Edelia I. Trevino, 8305 Baylark, Corpus Christi, Texas, 78412</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 8, 2008</p> <p>Date of NOE Relating to this Case: August 29, 2008</p> <p>Background Facts: The EDPRP was filed on February 26, 2009. The Respondent signed the agreed order on May 26, 2009.</p> <p>Current Compliance Status: Not yet in compliance. The Respondent does not have a delivery certificate.</p> <p>PST: Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an underground storage tank ("UST") system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p>	<p>Total Assessed: \$2,550</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$2,550</p> <p>The Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days, permanently remove the UST system from service. 2. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision No. 1.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	2-Sep-2008	Screening	7-Sep-2008	EPA Due	
	PCW	9-Feb-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Edelia I. Trevino
Reg. Ent. Ref. No.	RN102270501
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36708	No. of Violations	1
Docket No.	2008-1687-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Greimel
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 2.0% Enhancement *Subtotals 2, 3, & 7* **\$50**

Notes: Enhancement for one previous NOV without same or similar violations.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$0**

Economic Benefit 0.0% Enhancement* *Subtotal 6* **\$0**

Total EB Amounts **\$2,611**
Approx. Cost of Compliance **\$5,000**

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$2,550**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$2,550**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$2,550**

DEFERRAL 0.0% Reduction *Adjustment* **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$2,550**

Screening Date 7-Sep-2008

Docket No. 2008-1687-PST-E

PCW

Respondent Edelia I. Trevino

Policy Revision 2 (September 2002)

Case ID No. 36708

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102270501

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one previous NOV without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date 7-Sep-2008		Docket No. 2008-1687-PST-E		PCW																	
Respondent Edelia I. Trevino		<small>Policy Revision 2 (September 2002)</small>																			
Case ID No. 36708		<small>PCW Revision June 12, 2008</small>																			
Reg. Ent. Reference No. RN102270501																					
Media [Statute] Petroleum Storage Tank																					
Enf. Coordinator Thomas Greimel																					
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>																			
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px; text-align: center;">30 Tex. Admin. Code § 334.47(a)(2)</div>																			
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.</div>																			
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$10,000</div>																	
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td>Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td>Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td>Potential</td> <td style="text-align: center;">x</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Potential	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: right;">25%</div>
		Harm																			
	Release	Major	Moderate	Minor																	
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
Potential	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
>> Programmatic Matrix																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Falsification	Major	Moderate	Minor		<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: right;">0%</div>						
	Falsification	Major	Moderate	Minor																	
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																	
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>																				
Adjustment				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$7,500</div>																	
				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$2,500</div>																	
Violation Events																					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>	Number of violation days																		
		<div style="border: 1px solid black; padding: 2px; text-align: center;">30</div>																			
mark only one with an x	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px; text-align: right;">\$2,500</div>																		
	monthly	x																			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
One monthly event is recommended based on the documentation of the violation during the August 8, 2008 investigation.																					
Good Faith Efforts to Comply		0.0% Reduction		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$0</div>																	
		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td>Ordinary</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>			Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Ordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	N/A	x	(mark with x)						
	Before NOV	NOV to EDPRP/Settlement Offer																			
Extraordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
Ordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
N/A	x	(mark with x)																			
Notes		<div style="border: 1px solid black; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div>																			
Violation Subtotal				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$2,500</div>																	
Economic Benefit (EB) for this violation		Statutory Limit Test																			
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$2,611</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px; text-align: right;">\$2,550</div>																		
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$2,550</div>																	

Economic Benefit Worksheet

Respondent: Edelia I. Trevino

Case ID No. 36708

Reg. Ent. Reference No. RN102270501

Media: Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	22-Dec-1998	30-May-2009	10.44	\$2,611	n/a	\$2,611

Notes for DELAYED costs

Estimated minimum cost to remove a UST System with unknown capacity. Date Required is the date when the Respondent was required to upgrade the UST system. Final Date is the date the Respondent is expected to come into compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$2,611

Compliance History

Customer/Respondent/Owner-Operator: CN601207285 TREVINO, EDELIA I. Classification: AVERAGE Rating: 1.00
Regulated Entity: RN102270501 TREVINO, EDELIA I. Classification: AVERAGE Site Rating: 1.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 61858
REGISTRATION
Location: 866 S PADRE ISLAND DR, CORPUS CHRISTI, TX, 78416 Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: October 24, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 24, 2003 to October 24, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Greimel Phone: 512-239-5690

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 05/30/2006 (468655)
2 08/29/2008 (689608)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 05/30/2006 (468655)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(1)(A)
Description: Failure to develop and maintain all UST records required by the provisions of Title 30 TAC 334, including documentation demonstrating that the UST is protected from corrosion.
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF
AN ENFORCEMENT ACTION
AGAINST EDELIA I. TREVINO
RN102270501**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-1687-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Edelia I. Trevino ("Ms. Trevino") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Ms. Trevino, appear before the Commission and together stipulate that:

1. Ms. Trevino owns real property located at 866 South Padre Island Dr., Corpus Christi, Nueces County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Ms. Trevino agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Trevino is subject to the Commission's jurisdiction.
4. Ms. Trevino received notice of the violations alleged in Section II ("Allegations") on or about September 3, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Trevino of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of two thousand five hundred fifty dollars (\$2,550.00) is assessed by the Commission in settlement of the violation alleged in Section II ("Allegations"). Ms. Trevino paid two thousand five hundred fifty dollars (\$2,550.00) of the administrative penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Ms. Trevino have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Ms. Trevino has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on August 8, 2008, a TCEQ Corpus Christi Regional Office investigator documented that Ms. Trevino violated 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an underground storage tank ("UST") system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

III. DENIALS

Ms. Trevino generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Ms. Trevino pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ms. Trevino's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Edelia I. Trevino, Docket No. 2008-1687-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Ms. Trevino shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, Ms. Trevino shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; and
 - b. Within 45 days after the effective date of this Agreed Order, Ms. Trevino shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Brad Genzer, Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200

Corpus Christi, Texas 78412-5503

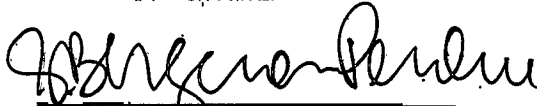
3. The provisions of this Agreed Order shall apply to and be binding upon Ms. Trevino. Ms. Trevino is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Ms. Trevino fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ms. Trevino's failure to comply is not a violation of this Agreed Order. Ms. Trevino shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Trevino shall notify the Executive Director within seven days after Ms. Trevino becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Trevino shall be made in writing to the Executive Director. Extensions are not effective until Ms. Trevino receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Trevino in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Ms. Trevino, or three days after the date on which the Commission mails notice of the Order to Ms. Trevino, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Edella I. Trevino
TCEQ Docket No. 2008-1687-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/21/2009

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Ms. Trevino's compliance history;
- Greater scrutiny of any permit applications submitted by Ms. Trevino;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Ms. Trevino;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Ms. Trevino; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

5-26-09

Date

Edella I. Trevino

Name (Printed or typed)

owner

Title

Authorized representative of

Edella I. Trevino